

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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March 28, 2011

To All Interested Parties:

SUBJECT: State Procurement Office Overview on Government Contracting

Government contracting involves numerous statutes and requirements that departments and agencies must meet, which includes the "procurement process" to contract for goods, services or construction. The enclosed Overview on Government Contracting delineates the procurement requirements along with the many other requirements.

The enclosure illustrates that the numerous statutes and requirements collectively results in a lengthy and complex government contracting process. For example, Attachment A reveals that a typical DAGS capital improvement project from inception to completion of the project is on average 20-40+ months. Within this time period, the "procurement process" which includes the bidding period, obtaining building permits and compliance documents as highlighted in yellow, is 3-6 months. In effect, any additional requirements (i.e. statutory, administrative rules, agency requirements, etc.) and/or reductions in resources will correspondingly lengthen the current contracting process.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron S. Fujioka".

Aaron S. Fujioka

enclosure

State Procurement Office
OVERVIEW
CHAPTER 103D, HRS
Hawaii Public Procurement Code

March 24, 2011

GOVERNMENT CONTRACTING

Government contracting can be lengthy and complex due to numerous related requirements or processes in the Hawaii Revised Statutes (HRS), applicable Hawaii Administrative Rules (HAR), and jurisdictional administrative requirements and approvals that require consideration and inclusion. HRS chapter 103D is only one of several processes that results in government contracts. Other contracting processes are available such as HRS chapter 102 - concessions, HRS chapter 103F - purchase of health and human services, HRS chapter 42F - grants and subsidies, along with numerous contracts that are exempt or not subject to any statutory processes.

The following are the many departments and agencies involved in the process of contracting with the State.

Dept/Agency	Description	Reference
Legislature	Grants and Subsidies.	HRS chapter 42F
All governmental entities	Concessions.	HRS chapter 102
Dept of Land & Natural Resources	Public Lands, Management and Disposition of.	HRS chapter 171
State Procurement Office (SPO)	<p>Responsible for the implementation of the Hawaii Public Procurement Code, HRS chapter 103D, for goods, services, and construction. Requirements included in this chapter are:</p> <ul style="list-style-type: none"> • Pre-bid and pre-proposal requirements for construction and design-build projects; • Due dates/preparation time for submittal of bid is minimum ten calendar days, and thirty calendar days for request for proposals from issuance of solicitation; • Bonding requirements for contract security and performance/payment bonding; • Preferences of Hawaii products for construction/soil amendment products (i.e. aggregates, sand, asphalt, cement, cement products, compost), and food, gas, plastic/foam products; • Preferences for printing in-state; • Preferences for recycled products (i.e. paving materials, paper products); • Preferences for software development using Hawaii businesses; • Small business set aside program • Debriefing provisions for submittal within three working days after posting of notice of award; • Protest provisions for submittal within five working days after posting of award; and <p>Responsible for the implementation of the Purchases of Health and Human Services, HRS chapter 103F.</p>	<p>HRS §103D-303.5</p> <p>HAR §3-122-16.02</p> <p>§§103D-323, 103D-324</p> <p>§103D-1002</p> <p>§103D-1003</p> <p>§103D-1005</p> <p>§103D-1006</p> <p>§103D-906</p> <p>§§103D-303, 103D-304</p> <p>§103D-701</p> <p>HRS chapter 103F</p>

Dept/Agency	Description	Reference
Procurement Policy Board (PPB)	Promulgates the Hawaii Administrative Rules (HAR) for HRS chapters 103D and 103F, and issues Procurement Directives.	HRS chapters 103D and 103F
Department of Labor and Industrial Relations (DLIR)	Oversees statutes protecting the rights of working people while ensuring the interests of businesses and employers, such as: <ul style="list-style-type: none"> • Prevailing wages for construction contracts, <i>Wages and Hours of Employees on Public Works</i>, HRS chapter 104; • Apprenticeship Program; • Employment Practices; • Unemployment Insurance (UI); • Occupational Safety and Health (OSHA); • Temporary Disability Insurance (TDI); • Workers Compensation (WC); and • Prepaid Health Care (PHC). 	HRS chapter 104 HRS chapter 372 HRS chapter 378 HRS chapter 385 HRS chapter 396 HRS chapter 392 HRS chapter 386 HRS chapter 393
Department of Accounting and General Services (DAGS)	Oversees statutes on <i>Expenditure of Public Money and Public Contracts</i> , HRS chapter 103, including: <ul style="list-style-type: none"> • Legislature and Governor approval for CIP allotment of funds; • Requires wages, hours and working conditions of contractor's employees; • Requires wages and hours of employees on public works contracts; • Apprenticeship agreements (DLIR program) for public works contracts (Act 17, SLH 2009); and • Issued guidance on the <i>Employment of State Residents on Construction Procurement Contracts</i>, HRS chapter 103B (Act 68, SLH 2010); requirement for construction contracts to ensure Hawaii residents compose of not less than eighty per cent of the workforce employed to perform the contract. 	HRS chapter 103 §103-7 §103-55 §103-55.5 §103-55.6 HRS chapter 103B
Office of Information Practices (OIP)	Requires disclosure of government records; <i>Uniform Information Practices Act</i> , HRS chapter 92F.	HRS chapter 92F
State Ethics Commission	Requires applicable code of ethics for government employees and officers; <i>Standards of Conduct</i> , HRS chapter 84.	HRS chapter 84
County State Federal	County: Construction permitting process, as applicable, includes but not limited to: <ul style="list-style-type: none"> • Plan Reviews and Planning Permits, EIS/EA; • Zoning and Land Use Permits such as Cluster (Agricultural, Country, Housing), Conditional Use, Planned Development Housing, Shoreline Setback Variance, Street Tree Review, Zoning Variance; • Construction and Building Permits such as Inspections, Building Code Requirements (Housing/Electrical/Plumbing/Fire), Demolition Permit, Flood Hazard District; and • Engineering and Subdivision Permits, includes Grading, Grubbing, and Stockpiling permit, roads, sewers, traffic, trenching permit. 	See Attachment A on permitting Time Requirements

Dept/Agency	Description	Reference
County State Federal continued	<p>State Agencies:</p> <ul style="list-style-type: none"> DOH Environmental Management Div Permits- <ul style="list-style-type: none"> Clean Air Branch Solid/Hazardous Waste Branch, and Clean Water Branch; and DLNR, Land Division. <p>Federal Agency: Environmental Protection Agency (EPA).</p>	HRS 432B (clean air) HRS 432G (solid waste) HRS 342D (water pollution)
Department of Business, Economic Development & Tourism	Oversees the Hawaii Clean Energy Initiative Program.	HRS 196-10.5
Department of Commerce and Consumer Affairs (DCCA)	<p>Oversees:</p> <ul style="list-style-type: none"> Professional & Vocational Licensing (PVL) for Engineering, Architects, Surveyors and Landscape, and General contractor and subcontractor licensing requirements, responsible for licenses of 47 different professions and vocations; Business registration (BREG) maintains the business registry for all corporations, limited liability companies, general partnerships, limited partnerships, limited liability partnerships and limited liability limited partnerships conducting business activities in the State. In addition, the registry contains trade names, trademarks and service marks; and Office of Administrative Hearings (OAH) for appeal process after a protest is denied. 	HRS chapter 464 HRS chapter 444
Department of Health (DOH)	<p>Oversees:</p> <ul style="list-style-type: none"> Environmental Impact Statements; Green purchasing/Environmentally Preferred Purchasing (EPP), Energy Star products, Biofuel products and Energy-efficient vehicles; Green Building/Leadership in Energy and Environmental Design (LEED), landscape designs; and Disposal of electronic waste, hazardous waste, pharmaceutical/medical waste, recycling. 	HRS chapter 343
Department of Taxation (TAX) Internal Revenue Service (IRS) Dept of Labor & Industrial Relations (DLIR) Dept of Commerce & Consumer Affairs (DCCA)	<p>The following are required for contracting:</p> <ul style="list-style-type: none"> Certification of compliance with state laws for A-6 Tax Clearance; LIR#27 Labor Certification (TDI, UI, Prepaid health care, WC); and DCCA Certificate of Good Standing. 	HRS §103D-310(c)

Other related administrative requirements such as:

Office of the Governor	Executive Memorandums available at http://hawaii.gov/budget/ , includes Budget Execution Policies requiring Governor's approvals for expending funds.
Department of Budget & Finance (B&F)	Finance Memorandums available at http://hawaii.gov/budget/ , includes B&F requirements.
Department of Accounting & General Services (DAGS)	<ul style="list-style-type: none"> Comptroller Memorandums available at http://hawaii.gov/dags/cm, such as: <ul style="list-style-type: none"> Certificate of Insurance (Ref. CM 2010-39) on contractor's insurance policies;

DAGS continued	<ul style="list-style-type: none"> ➤ Act 68, SLH 2010 (Ref. CM 2010-38) on implementing Hawaii residents workforce of 80% for construction projects; and ➤ Contract Execution Date (Ref. CM 2009-14) for retroactive contracts approval. • Personal Services Contractor Procedural Manual at http://aarc.hawaii.gov/. • Contract certification of funds and encumbrance. • Pre-Audit review/approval request for payment processing/vouchering. 																				
Department of the Attorney General (AG)	<p>Contract forms for approval as to form available at <i>Internal Forms Database</i>, http://www4.hawaii.gov/StateForms/Internal/ShowInternal.cfm</p> <table border="1"> <tr> <td>AG-001</td><td>Contract for Professional Services</td></tr> <tr> <td>AG-002</td><td>Contract for Goods and Services: Exempt, Small Purchase, Sole Source, or Emergency</td></tr> <tr> <td>AG-003</td><td>Contract for Goods or Services Based Upon Invitation for Competitive Sealed Bids</td></tr> <tr> <td>AG-004</td><td>Contract for Goods or Services Based Upon Request for Competitive Sealed Proposal</td></tr> <tr> <td>AG-103F1</td><td>Competitive Purchase of Services</td></tr> <tr> <td>AG-103F2</td><td>Treatment Purchase of Service</td></tr> <tr> <td>AG-103F3</td><td>Restrictive Purchase of Service</td></tr> <tr> <td>AG-103F4</td><td>Crisis Purchase of Service</td></tr> <tr> <td>AG-103F5</td><td>Small Purchase of Service</td></tr> <tr> <td>AG-103F6</td><td>Transactions Exempt from Chapter 103F, HRS</td></tr> </table>	AG-001	Contract for Professional Services	AG-002	Contract for Goods and Services: Exempt, Small Purchase, Sole Source, or Emergency	AG-003	Contract for Goods or Services Based Upon Invitation for Competitive Sealed Bids	AG-004	Contract for Goods or Services Based Upon Request for Competitive Sealed Proposal	AG-103F1	Competitive Purchase of Services	AG-103F2	Treatment Purchase of Service	AG-103F3	Restrictive Purchase of Service	AG-103F4	Crisis Purchase of Service	AG-103F5	Small Purchase of Service	AG-103F6	Transactions Exempt from Chapter 103F, HRS
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To assist other jurisdictions, State agencies, vendors, contractors and service providers maneuver through this process as expeditiously as possible, the SPO website offers programs and services such as:

- Procurement Notices System (PNS) <http://hawaii.gov/spo/procurement-notices/> locate available State and county notices;
- Hawaii Electronic Procurement System (HePS) <http://hawaii.gov/spo> to receive notices and submit bids electronically;
- Hawaii Compliance Express (HCE) at <https://vendors.ehawaii.gov/hce/splash/welcome.html> is a single compliance document;
- pCard (purchasing card) program at <http://hawaii.gov/spo> for payments made via a pCard;
- Awards posting at <http://hawaii.gov/spo2/>; view thousands of contract awards posted on-line;
- Procurement Directives and Procurement Circulars at <http://hawaii.gov/spo/>;
- Price list and Vendor list contracts, preapproved contracts, master contracts available at <http://www4.hawaii.gov/priceapps/>;
- Forms for State agencies at <http://www4.hawaii.gov/StateForms/SPOInt/ShowInternal.cfm>
- Forms for vendors, contractors and service providers at <http://www4.hawaii.gov/StateForms/ShowForm.cfm?ID=SP>

- Training workshops for Vendors, Contractors, Service Providers available at <http://hawaii.gov/spo/doing-business-with-the-state/doing-business-with-the-state-information-for-vendors>
- Variety of training workshops for State/County personnel on procurement and other related topics, available at <http://www4.hawaii.gov/spoh/tng/trainingschedule.htm>

Table B1a
Regular Time Requirements

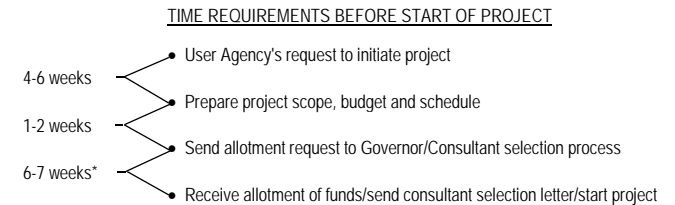
(Derived from Table B1 dated January 1, 1981. This table supplements Table B1.)

Date: 10/10

SEE BELOW: TIME REQUIREMENTS BEFORE START OF PROJECT.

Planning Project Initiation	ACTIVITY	TIME REQUIRED IN WEEKS/MONTHS										START MASTER PLAN, SITE SELECTION, E.A./E.I.S., PDR (For larger or more complex projects)							
		CONSTRUCTION COST IN THOUSANDS (PCL)																	
		100	300	500	700	900	1,000	2,500	4,000	6,000	10,000								
	PM REC'D DATE TO START	2	2	2	2	2	3	3	3	4	4								
	FEE NEGOTIATION	8	8	8	8	8	8	12	12	12	12								
Design	PRE-SCHEMATIC	0	0	2	3	3	3	4	4	6	6	START ENVIRONMENTAL ASSESSMENT (E.A.) (For smaller or non-controversial projects)	4-6 months for non-controversial 6-12 months for more significant projects Design time for \$10 million project: 39 weeks or ~10 months	Environmental Assessment 6-12 months for smaller/non-controversial projects COMPLETE E.A.	Environmental Impact Statement 12-24 months for larger, more complex projects COMPLETE M.P., E.A./E.I.S.				
	DAGS	0	0	1	2	3	3	3	4	4	4								
	(USER) _{1/}	0	0	(1)	(1)	(2)	(2)	(2)	(3)	(3)	(3)								
	SCHEMATIC	2	2	2	3	3	3	4	4	6	6								
	DAGS	1	2	2	3	3	3	3	4	4	4	SUBMIT LAND USE PERMIT APPLICATION OR APPROVALS • Special Management Area • Conditional Use Permit • Conservation District Use Permit • Special Permit • Subdivision • Height Waiver or Variance • Etc.							
	(USER) _{1/}	(1)	(1)	(1)	(2)	(2)	(2)	(2)	(3)	(3)	(3)								
	PRELIMINARY	2	3	3	3	3	3	5	7	8	10								
	DAGS	1	2	2	2	2	2	3	3	3	3								
	(USER) _{1/}	(1)	(1)	(1)	(1)	(1)	(1)	(2)	(2)	(2)	(2)								
	PRE-FINAL	3	4	4	4	5	6	7	9	11	15	LAND USE PERMITS APPROVED							
	DAGS	3	3	3	3	3	3	4	4	4	4								
	(GOV & USER) _{1/}	(2)	(2)	(2)	(2)	(2)	(2)	(3)	(3)	(3)	(3)								
		FINAL	1	1	1	1	2	2	3	3	3	3				SUBMIT BUILDING PERMIT APPLICATION • Typical approvals required (see PM Form 78)	2-4 months for smaller projects 4-8 months for bigger projects 8-12 months for larger projects		
		DAGS	1	1	1	1	1	1	1	1	1	1							
		TOTAL (CONSULTANT)	8	10	12	14	16	17	23	27	34	40							
Building Permit	(DAGS)	6	8	9	11	12	12	14	16	16	16								
	TOTAL DESIGN TIME (WEEKS)	24.00	28.00	31.00	35.00	38.00	40.00	52.00	58.00	66.00	72.00								
	(MONTHS)	6.00	7.00	7.75	8.75	9.50	10.00	13.00	14.50	16.50	18.00								
Bid/Award Contract	BIDDING TIME (MONTHS)	1.50	1.50	1.50	1.50	1.50	1.50	2.00	2.00	2.00	2.00	BUILDING PERMIT APPROVED							
	B/O TO NTP (MONTHS)	1.50	2.00	3.00	3.00	3.00	3.00	4.00	4.00	5.00	6.00								
Construction	CONSTRUCTION _{2/} (MONTHS)	4.00	5.00	6.00	7.00	8.00	9.00	11.00	13.00	15.00	18.00								
	TOTAL PROJECT TIME (MONTHS)	13.00	15.50	18.25	20.25	22.00	23.50	30.00	33.50	38.50	44.00	TIME REQUIREMENTS BEFORE START OF PROJECT							
	PM REC'D DATE TO B/O (MONTHS)	7.50	8.50	9.25	10.25	11.00	11.50	15.00	16.50	18.50	20.00	● User Agency's request to initiate project							

NOTE: • Refer to notes on Table B1.
• For priority projects, time requirements should be adjusted accordingly.
^{1/} User and Governor reviews concurrent with DAGS review.
^{2/} Verify material long-lead items; includes 10% for inclement weather.



*Based on actual data since 12/15/08 to 2/10/10